



PATENT
Docket No.: H-32531A

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

DELISA DANIELS
Type or print name

Delisa Daniels
Signature

February 12, 2009
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

DUCRAY, ET AL.

APPLICATION NO: **10/518,210**

FILED: **NOVEMBER 21, 2005**

FOR: **AMINOACETONITRILE DERIVATIVES SUITABLE FOR
CONTROLLING PARASITES**

EXAMINER:

FIONA POWERS

ART UNIT: **1626**

Mail Stop: Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT
TO 37 CFR §1.181(A)**

Sir:

The Notice of Abandonment dated January 13, 2009 from Examiner Fiona Powers of Art Unit 1626 has been received. Applicants hereby petition that the holding of abandonment be withdrawn because the issue fee and publication fee were timely paid.

The present application was held to be abandoned by the Examiner for failure to timely pay the required issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance. However, Applicants timely filed Part B Fee Transmittal on October 9, 2008 along with the required fee. The Certificate of Transmission on these papers certifies that they were transmitted via facsimile with the United States Patent and Trademark Office on October 9, 2008.

Copies of the Part B Fee Transmittal and Certificate of Transmission are enclosed herewith.

Additionally, Applicants received an Auto-Reply Facsimile Transmission from the United States Patent and Trademark Office indicating the Part B Fee Transmittal was received on October 9, 2008. A copy of the Auto-Reply Facsimile Transmission is enclosed. This Facsimile Transmission serves as prima facie evidence of receipt by the USPTO of all papers listed thereon. MPEP §503.

Therefore, Applicants submit that the holding of abandonment for failure to respond is improper and respectfully request that it be withdrawn and the response properly considered.

CONCLUSION

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Novartis Animal Health US Inc., 3200 Northline Avenue, Suite 300, Greensboro, NC 27408. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-4389.

Respectfully submitted,

February 11, 2009
Date

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Fax

Attention Commissioner for Patents
USPTO

Fax no. 571-273-2885
No. of pages 2 including cover page

Date October 9, 2008

Concerning **U.S. Patent Application for
DUCRAY ET AL.
Application No. 10/518,210
Docket No. H-32531**

Please find attached the the Part B – Fee(s) Transmittal form.

Very truly yours,

DeLisa Daniels

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (571) 273-2885 on October 9, 2008.

DeLisa Daniels

TO: Auto-reply fax to 336 387 1407 COMPANY:

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 336 387 1407

Fax Information

Date Received:

10/9/2008 11:01:20 AM [Eastern Daylight Time]


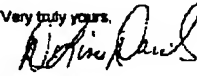
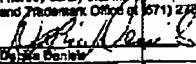
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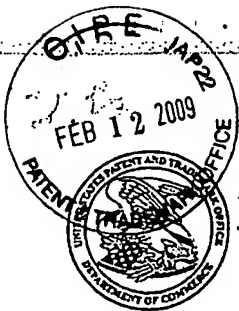
2 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page

=====>

10/09/2008 11:53	336-387-1407	NOVARTIS ANIMAL HEALTH	PAGE: 01/02
Delia Cantale Legal / Patent Assistant		Novartis Animal Health US, Inc. 3300 Northline Avenue Suite 300 Greensboro, NC 27406 Tel: (336) 337-1085 Fax: (336) 337-1279 delia.cantale@novartis.com	
			
Fax			
Attention	Commissioner for Patents USPTO		
Fax no.	571-273-2885		
No. of pages	2 including cover page		
Date	October 9, 2008		
Concerning	U.S. Patent Application for DUCRAY ET AL. Application No. 10/618,210 DocId: No. H-32651		
Please find attached to the Part B - Fee(s) Transmittal form.			
Very truly yours,  Delia Cantale			
Certificate of Transmission			
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (571) 273-2885 on October 9, 2008.  Delia Cantale			
PAGE 02 * RECD AT 10/09/2008 11:01:20 AM [Eastern Daylight Time] * BY FAXPTO-SP00F-056 * DMS-273285 * CSD-018 007 1447 * DURATION (mm-ss) 01-08			



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,210	11/21/2005	Pierre Ducray	H-32531A	5227

7590 01/13/2009
Novartis Animal Health US Inc.
3200 Northline Avenue, Suite 300
Greensboro, NC 27408

EXAMINER

POWERS, FIONA

ART UNIT

PAPER NUMBER

1626

MAIL DATE

DELIVERY MODE

01/13/2009

PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____.
The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



Attachment to Notice of Abandonment

**For questions concerning the notice contact
Office of Patent Publication**

Image Assistance Center: 888-786-0101.

Information is also available on the USPTO Internet web site:
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

Respond to the Notice of Abandonment by one of the following:

1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing; 37 CFR § 1.10 "Express Mail" mailing; or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment